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June 13, 2013

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VIA ECF

Magistrate Judge Marilyn D. Go
United States District Court
225 Cadman Plaza East
Room 1214-S
Brooklyn, New York 11201

6/17/13
Enough! No additional
briefing unless I ask
for it.

RE: *Dover et al. v. British Airways PLC*
Case No. 1:12-cv-5567

/s/ Judge Raymond J. Dearie

Your Honor:

I represent Plaintiffs Russell Dover, Jonathan Stone, Cody Rank, and Suzette Perry ("Plaintiffs") in this matter. Plaintiffs respectfully request leave to file a sur-reply in opposition to Defendant British Airway, PLC (UK)'s ("BA's") motion to stay discovery. A sur-reply is necessary to address a mistaken argument that BA raises for the first time on reply.

As the Court is aware, BA argues that Plaintiffs' discovery requests are overbroad and irrelevant in large part because certain requests seek information regarding BA's fuel surcharges on flights other than those between the United States and United Kingdom. (See BA Stay Br. at 12-13, 14-16, 17-18.) BA's argument borders on frivolous, because it contradicts the explicit allegations in the Complaint. Plaintiffs allege that the class covers all Fuel Surcharges paid on Reward Tickets by United States Executive Club Members *regardless of the route flown*, not just Fuel Surcharges paid on the U.S. to U.K. route. (See Compl. ¶ 56.) Plaintiffs' discovery requests are not limited to the U.S. to U.K. route because their claims are not limited to that route.

In its reply brief, BA attempts to end-run Plaintiffs' clear allegations by arguing that Plaintiffs are not entitled to discovery outside the U.S. to U.K. route because Plaintiff Cody Rank, who traveled outside the U.S. to U.K. route, has not "allege[d] with any specificity that he paid a fuel surcharge." (BA Stay Reply Br. at 8.) BA is both factually and legally incorrect. BA is wrong as a matter of fact because Plaintiff Rank expressly alleges that he paid fuel surcharges for the flights listed in the Complaint, and he even specifies the total dollar figure that he paid for all taxes and surcharges (a hefty \$1436.78), including the Fuel Surcharge. (*Id.* ¶ 27.)

For the above factual inaccuracy alone, the Court should reject BA's spurious argument, and it should deny the total discovery stay that Judge Dearie already has indicated that he disfavors. (See 3/5/13 Hrg. Tr. 20:4-9 ("I'm going to talk to the magistrate. Either she or I will issue an order regarding discovery. I'm not a fan of holding everything up. And yet, on the other hand, I know there are levels of discovery some of which are far more costly, far more time consuming." (emphasis added))).)